

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

O.M. on behalf of herself and her minor child, L.P.,

Plaintiffs,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION; THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT OF THE
CITY OF NEW YORK; CHANCELLOR DAVID
BANKS in his official capacity; and
THE CITY OF NEW YORK,

Defendants.

ANALISA TORRES, District Judge:

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/8/2024

23 Civ. 4446 (AT)

ORDER

Plaintiffs request that the Court consolidates this action with *J.Z. v. New York City Department of Education*, No. 23 Civ. 9779, because both cases allege that Defendants have failed to implement pendency services, particularly with regard to feeding therapy. ECF No. 89 at 1–2; *see* ECF No. 92 (Defendants opposing this request). Federal Rule of Civil Procedure 42 permits, but does not require, consolidation if actions “involve a common question of law or fact.” Fed. R. Civ. P. 42(a). The decision to order consolidation is in the Court’s discretion. *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir. 1990). These actions turn on facts particular to each Plaintiff, such as the contents of their individualized education programs, their individual needs, and their specific administrative proceedings. *See* ECF No. 92 at 3. Accordingly, consolidation is inappropriate, and Plaintiffs’ request is DENIED.

That said, Rule 42 also permits courts to “issue any other orders to avoid unnecessary cost or delay.” Because these cases will involve similar discovery, they will both be referred to the same magistrate judge, Judge Gabriel W. Gorenstein, for general pretrial management and to coordinate a common discovery schedule.

SO ORDERED.

Dated: August 8, 2024
New York, New York



ANALISA TORRES
United States District Judge